IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.605/2006

Magni Ram Modi (deceased) through L.Rs.
Shiv Prasad Modi & Others
...defendant-appellants
Versus
Ramavtar Biyani S/o Gajanand
...plaintiff-respondent

Date of Order ::: 19.12.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Bihari Lal Agrawal, Counsel for appellants
Shri B.L. Mandhana, Counsel for respondent
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By the Court:-

Learned counsel for the defendant-appellants, on the instructions of defendant-appellants, does not press this appeal on merits and prays that some reasonable time may be granted to the defendant-appellants to handover peaceful and vacant possession of the rented premises to the plaintiff-respondent.

Learned counsel for the plaintiff-respondent has no objection in grant of time up-to 31st of December, 2007, to the defendant-appellants to handover peaceful and vacant possession of the rented premises.

Both the parties have agreed to the following

terms and conditions:-

1. The defendant-appellants undertake to hand-over the vacant and peaceful possession of the rented premises, in dispute, to the plaintiff-respondent on or before 31st of December, 2007. The plaintiff-respondent shall not execute the impugned decree till 31st of December, 2007.

2. The defendant-appellants undertake to pay or deposit the entire arrears of mesne profit/rent, if any, within a period of one month from today and will further continue to pay the monthly mesne profit/rent by 15th day of each succeeding month or in advance to the plaintiff-respondent.

3. The defendant-appellants further undertake that they shall not sub-let, assign or part with the possession of the rented premises or any part thereof in favour of any one else and would not create any third party interest in the same during the aforesaid period.

4. The defendant-appellants shall furnish a written undertaking incorporating the aforesaid conditions, in the Lower Court within a period of four weeks from today, with an advance copy thereof to the plaintiff-respondent.

5. The plaintiff-respondent shall furnish his bank account to the defendant-appellants or their counsel within a period of two weeks from today. In case, the details of the bank account are furnished by the plaintiff-respondent then the defendant-appellants are directed to deposit the amount of all arrears as well as future mesne profits in the said bank account

of the plaintiff-respondent. In case the details of the bank account are not furnished by the plaintiff-respondent then it will be open for the defendant-appellants to deposit the amount, as directed above, in the lower court itself.

It is made clear that in case the defendant-appellants do not comply with any of the aforesaid conditions, then it will be open for the plaintiff-respondent to get the decree passed in his favour executed even before the aforesaid date and to initiate contempt proceedings in this court.

With the aforesaid terms, conditions and directions, the second appeal is accordingly dismissed as not pressed.

(Narendra Kumar Jain) J.

//Jaiman//